President.—Those who are in favour of the Bill, as amended, will please hold up their hands.

The Bill as amended was unanimously carried.

മിസ്റ്റർ കെ. രങ്കരൻ നമ്പൂതിരി.—ഈ രാജ്യത്തുള്ള ഏറ്റവും ചുരുങ്ങിയതു് അതായതു് ഇരുന്നൂറിൽ ഒന്നു മാത്രം വരുന്ന നമ്പൂതിരി സമുദായത്തിനു വേണ്ടി വിലയേറിയവളരെ സമയം ചിലവഴിച്ചു് ഒരു ബിൽ പാസ്സാക്കി സമുദായത്തെ അനുഗ്രഹിച്ച സഭാ സാമാജികന്മാരോടും ബഹുമാനപ്പെട്ട ശവമ്മെണ്ടനോടും നമ്പൂതിരി സമുദായത്തിനുള്ള അകൈതവമായ കൃതജ്ഞതയെ സമുദായ പ്രതിനിധി എന്ന നിലയിൽ ഞാൻ ഏറ്റവും സന്തോഷത്തോടെ ഇവിടെ അവസരത്തിൽ പ്രദർശിപ്പിച്ചുകൊള്ളുന്നു.

Rao Sahib Mr. T. V. Kasturi Ranga Ayyar.— I thank the Hon'ble Nambutiri Member for having successfully deliberated these points.

Dr. A. R. Menon.—Then you will have to thank the Hon'ble Member for his speech also.

The Usurious Loans Bill.

President.—The next item is the presentation of the Select Committee Report on the Usurious Loans Bill and the motion that the Bill, as amended, may be taken up for consideration.

Srimati T. Madhavi Amma.—I beg to move that the Select Committee's report on the Usurious Loans Bill as amended be taken up for consideration.

Dr. A. G. Menon.—I second it.

President.—There are some amendments to the same by Mr. C. A. Kunjunni Raja.

Mr. C. A. Kunjunni Raja.—The amendment is to insert a new clause as 2 (d) 'for re-opening any transaction which a borrower or debtor discovers to be unduly oppressive and for declaring such transaction void to such extent, the right to initiate such suit being hereby declared to be available for the borrower or debtor'.

President.—What is the clause as amended by the Select Committee?

Mr. C. A. Kunjunni Raja.—That is in the definition of the suit to which this Regulation applies. I want to insert this clause (d) as a separate and new one. The object is that the law as it stands now does not allow such a suit to be brought by the debtor. He can defend when the suit is filed against him and can claim relief, under the Regulation, but this amendment gives him a right to sue and renew the transaction even at the very beginning, so that all the evidence will be available, and the evidence will not have disappeared after some

LIBRARY ARCHIVES Kerala Legislative Assembly

time if the suit is delayed by the creditor. That is the only object. I have emphasised this aspect of the question and I think such an amendment to this effect is needed.

President.—That is section 2 and clause,

Mr. C. A. Kunjunni Raja.—It will be a new clause 2 (d).

Dr. A. G. Menon.—He wants to add a new clause as subdivision (d) to 2.

President.—Where is the amendment?

Mr. T. K. Krishna Menon.—It is in the agenda.

President.—The amendment of Mr. C. A. Kunjunni Raja reads thus:—'For re-opening any transaction which a borrower or debtor discovers to be unduly opressive and for declaring such transaction void to such extent, the right to initiate such suit being hereby declared to be available for the borrower or debtor. This is added because of certain decisions. Is it not?

Mr. C. A. Kunjunni Raja.—It is not owing to decisions. I want to insert such a clause separately.

Mr. T. A. Ramachandra Ayyar.—I second it.

Mr. K. Achyuta Menon.—I oppose the amendment because I am not aware in truth the matter which my friend is referring to. So far as I am concerned, there is no provision for a debtor to secure the properties of a creditor by way of mortgage. He was allowed to take a suit as a defence suit. Subsequently a provision was incorporated to redeem the situation proving that the transactions are valid. More than that, to give right for a suit to have declaration that money is due, is unheard of, and is not contemplated by this provision, but to give a right to the suit is still contemplated.

President.—The object is to preserve an evidence which may be lost with the time that may lapse. Then there is also the fact that wherever possible consequential relief has also to be effected.

Mr. C. A. Kunjunni Raja.—In order that a declaratory suit for consequential relief would be made, we do not entertain a simple or a mere suit for declaration.

Mr. K. Achyuta Menon.—So that there is no fear of evidence being not available, but in the case of a mortgager, they have to get back their right of property; so that the legislature may empower them to show the transaction was unfair.

Mr. V. K. Kochunni Menon.—I also oppose the amendment.

The provisions of the Bill are themselves sufficient for the debtor to risk his case. As regards that point I will come to

LIBRARY ARCHIVES Kerala Legislative Assembly

it later when I deal with my amendment. Now, as it is, the lender cannot expect how much he can get back. Every thing has to be determined by the court. I am not for extending the provisions to this matter as well. These suits are too troublesome.

President.—So, your amendment is raised on a different matter.

Mr. K. Raman Menon.—I oppose the amendment. Here the object contemplated is simply to relieve the creditors who have been unduly debited.

President.—The amendment under the section is to insert an additional clause 'for re-opening any transaction which a borrower or debtor discovers to be unduly oppressive and for declaring such transaction void to such extent, the right to initiate such suit being hereby declared to be available for the borrower or debtor'.

(*The amendment was put to the vote and lost.*)

Amendment No. 2.

Mr. C. A. Kunjunni Raja.—Insert the words 'or any award under the Co-operative Societies Regulation IV of 1088' after the words 'any decree of a Court' at the end of 3 (i) (b) (iii) (ii).

"Provided that in the exercise of these powers the Court shall not do anything which affects any decree of a Court or any award under the Co-operative Societies Regulation IV of 1088". Just as decree in Civil courts is not to be affected by that proviso this award may also be included within that proviso.

Mr. T. A. Ramachandra Ayyar.—I second it.

Srimati T. Madhavi Amma.—I oppose the amendment. I do not think such an inclusion is necessary. By this amendment the measures adopted here will not be extended to the members of the Co-operative Societies also. The line of work followed there is more or less the same as that of any ordinary *hundi*. So these societies have got the same evils, and is ruinous to public welfare as any other *hundi* concern. Again the persons who approach and borrow money from these societies are mostly from the poor classes and they deserve such reliefs more than the ordinary debtors of big *hundies*. Therefore, I oppose this amendment.

Mr. N. Padmanabha Menon.—I support the amendment. Decrees given by the Co-operative Registrar under the Co-operative Societies Regulation have the full force of the decrees of the Civil Courts but are not in themselves decrees. He is considered for all practical purposes the chief authority or the sole judge of these transactions.

LIBRARY ARCHIVES Kerala Legislative Assembly

President.—Does it say that awards passed by the Registrar under the Regulation will be considered as decrees of the Civil Court?

Mr. N. Padmanabha Menon.—It has the force of a Civil Court decree but it is not a decree. Decree does not speak anything about awards. To avoid complications it is better to make the matter clear.

President.—The question before the House is that under section 3 (i) (b) (iii) (ii) the words 'any awards under the Co-operative Societies Regulation IV of 1088' after the words 'any decree of a Court' be inserted.

The amendment was put to the vote and carried.

The House rose at 5 p. m.

T. K. KRISHNA MENON,
Secretary to the Council.

LIBRARY ARCHIVES Kerala Legislative Assembly